

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT WISECUP, an Individual, and JOHN
MURPHY, an Individual,

Plaintiffs,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, as receiver for Washington
Mutual Bank,

Defendant.

Case No. C09-1590 RAJ

**STIPULATION AND ORDER
CONSOLIDATING CASE NO. C09-
1590 WITH *IN RE FORMER
EMPLOYEES OF WASHINGTON
MUTUAL BANK v. FDIC AS
RECEIVER FOR WASHINGTON
MUTUAL BANK, ET AL.*, MASTER
FILE NO. C09-0504**

Note Date: February 9, 2010

BACKGROUND

On September 25, 2008, Federal Deposit Insurance Corporation (“FDIC”) was appointed receiver for Washington Mutual Bank. Since that time, numerous former employees of Washington Mutual Bank have filed claims with FDIC as receiver for Washington Mutual Bank (the “Receiver”) arising out of certain alleged employment agreements that those former employees had with Washington Mutual Bank. Those claims resulted in numerous lawsuits by plaintiffs in this District who allege that the Receiver improperly denied employment benefits

STIPULATION AND [PROPOSED] ORDER
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1 under the agreements. Prior to September 2, 2009, eighteen such lawsuits were filed (the
2 “Lawsuits”). The Receiver denies plaintiffs’ allegations.

3 On September 2, 2009, this Court entered an Order consolidating the Lawsuits pursuant
4 to FED. R. CIV. P. 42(a). *See* Sept. 2, 2009 Consolidation Order in Case No. C09-0504. The
5 Court found that the Lawsuits arise out of the same or similar transactions or occurrences and
6 involve the same or similar issues of law and fact. *Id.* The Court assigned Master File No.
7 C09-0504 to the consolidated lawsuit (the “Consolidated Lawsuit”). *Id.*

9 On November 6, 2009, Plaintiff Kurt Wisecup filed a lawsuit against the Receiver that
10 is virtually identical to the lawsuits filed by the other plaintiffs whose suits were consolidated
11 into the Consolidated Lawsuit (the “Wisecup Lawsuit”). On November 25, 2009, an amended
12 complaint was filed in the Wisecup Lawsuit adding John Murphy as a plaintiff. *See* Complaint
13 and Amended Complaint, Case No. C09-1590.

14 **STIPULATION**

15 The parties to the Wisecup Lawsuit stipulate and agree that the Wisecup Lawsuit arises
16 out of the same transactions or occurrences as the Consolidated Lawsuit, and thereby stipulate
17 to the consolidation of the Wisecup Lawsuit with the Consolidated Lawsuit pursuant to FED. R.
18 Civ. P. 42(a), subject to the terms outlined in the September 2 Consolidation Order. The parties
19 agree that the consolidation of the Wisecup Lawsuit with the Consolidated Lawsuit does not
20 affect or alter any outstanding deadlines to respond to the complaint, does not waive
21 defendant’s right to receiver proper service of process or challenge service of process, and does
22 not restrict any party from asserting any claim or defense.

23 The parties further stipulate and agree that consolidation of the Wisecup Lawsuit with
24 the Consolidated Lawsuit does not impact the Receiver’s pending Motion Pursuant To

1 FRCP 12(b)(6) And For Judgment On The Pleadings Pursuant To FRCP 12(c) To Dismiss All
2 Claims Against Defendant Federal Deposit Insurance Corporation, As Receiver For
3 Washington Mutual Bank (Dkt. #26; the "Receiver's Motion to Dismiss") in the Consolidated
4 Lawsuit. The parties agree that the claims in the Wisecup Lawsuit are subject to the arguments
5 for dismissal made in the Receiver's Motion to Dismiss. Thus, the parties stipulate and agree
6 that the Court should apply the arguments made in the Receiver's Motion to Dismiss with equal
7 force and effect to the allegations in the Wisecup Lawsuit.
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9 **ORDER**

10 IT IS SO ORDERED.

11 Dated this 9th day of February, 2010.
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15 The Honorable Richard A. Jones
16 United States District Judge
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1 **SO STIPULATED AND AGREED THIS 9th DAY OF**
2 **FEBRUARY, 2010:**

3 /s/ William Keller (with permission)

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STIPULATION AND ORDER CONSOLIDATING
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